

# THE RIGHT TO BE FORGOTTEN: A STEP IN THE RIGHT DIRECTION FOR CYBERSPACE LAW AND POLICY

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## I. BACKGROUND AND IMPLEMENTATION

In 2010, a Spanish citizen filed a complaint against Google Spain and Google Inc., arguing that an auction notice of his repossessed home on Google's search results violated his privacy rights because the repossession proceeding had been resolved long ago, and was no longer relevant.<sup>1</sup> Believing that the outdated content was causing damage to his reputation, the citizen argued Google should be required to remove it so that it would no longer show up in a search of his name.<sup>2</sup>

The case was referred to a Court of Justice for the European Union ("EU") who was asked to decide whether an individual has the right to request that his or her personal data be removed from accessibility via a search engine ("the right to be forgotten").<sup>3</sup> In a landmark decision, the EU court held that Internet search engines must remove personal information associated with an individual when the information is "inaccurate, inadequate, irrelevant or excessive."<sup>4</sup> Simply put, the new "right to be forgotten" provides a remedy for individuals seeking to have harmful or embarrassing details about themselves removed from the Internet, when certain criteria are met.

In practice, the right to be forgotten should function in a fairly straightforward manner. Under the new law, an individual who wishes to have information erased can file a request for deletion with a particular search engine, such as Google.<sup>5</sup> Upon receipt, the search engine is required to assess the request for deletion on a case-by-case basis to determine whether removal is warranted.<sup>6</sup> In deciding whether to grant the request, the EU court explained that search engine operators should consider a variety of factors, primarily "accuracy, adequacy and relevance (including

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1. See EUROPEAN COMMISSION, FACTSHEET ON THE "RIGHT TO BE FORGOTTEN" RULING (C-131/12) (2014), [http://ec.europa.eu/justice/data-protection/files/factsheets/factsheet\\_data\\_protection\\_en.pdf](http://ec.europa.eu/justice/data-protection/files/factsheets/factsheet_data_protection_en.pdf) [hereinafter RIGHT TO BE FORGOTTEN FACTSHEET].

2. *Id.*

3. *Id.*

4. *Id.*

5. *Id.*

6. *Id.*

time passed) of the information, as well as the proportionality of the links in relation to the purposes of the data processing.”<sup>7</sup> According to Google’s transparency report, the search engine has received over 183,000 requests for removal since implementing the official request process in May 2014.<sup>8</sup> Out of the approximate 659,000 URLs Google has evaluated in connection with these requests, it has removed approximately 40.5 percent of the links.<sup>9</sup>

The right to be forgotten represents a positive shift in cyberspace law and policy because it increases individuals’ control over personal information, and restores the balance between free speech and privacy in the digital world. Further, when negative information no longer serves the public interest, the policy gives deserving individuals the right to “start over” by having the information deleted. Consequently, the United States should follow the lead of the European Union and adopt the policy for the following reasons; the right to be forgotten: (1) promotes privacy and autonomy; (2) provides much-needed remedy to victims of cyber harassment; and (3) prevents discriminatory hiring practices based upon irrelevant information.

## II. BENEFITS OF THE RIGHT TO BE FORGOTTEN

### *A. The Right to be Forgotten Promotes Privacy and Autonomy*

The right to autonomy means “the right to exert some modicum of control over one’s electronic environment.”<sup>10</sup> Similarly, the right to privacy involves a person’s right to choose what information he or she wants to share with the public.<sup>11</sup> Without a doubt, the growth of the Internet and the modern search engine presents a challenge in terms protecting these rights, especially in countries like the United States. As privacy law in the U.S. has not adapted fast enough to address the growing concerns associated with modern technology, individuals’ rights to privacy and autonomy are rapidly deteriorating.

In today’s digital world, keeping certain personal information private is nearly impossible. For example, a simple Google or Yahoo search of an individual’s name will often reveal where the person lives,

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7. *Id.*, see also Case C-131/12, Google Spain SL v. Agencia Española de Protección de Datos ¶93 (May 13, 2014), <http://curia.europa.eu/juris/document/document.jsf?text=&docid=152065&doclang=EN>.

8. *See European Privacy Requests for Search Removals*, GOOGLE TRANSPARENCY REPORT (Mar. 8, 2014), <http://www.google.com/transparencyreport/removals/europeprivacy/?hl=en>.

9. *Id.*

10. RAYMOND S.R. KU & JACQUELINE D. LIPTON, CYBERSPACE LAW: CASES AND MATERIALS 117 (3rd ed. 2010) [hereinafter CYBERSPACE LAW].

11. *Id.*

works, where they went to school, if the person is married, who their spouse is and whether they have children. Furthermore, if the individual is active on social media websites like Facebook, Twitter, and LinkedIn, a search may also uncover photos and comments shared via social media networks, unless the individual has taken intricate precautions to keep the information private.

In many instances, easy access to others' personal information makes our lives easier. For instance, a person looking for a long lost friend or relative may be able to find the individual much more easily with the advent of the modern search engine. In addition, Internet searches allow us to "get to know" potential employers, co-workers, and blind dates prior to meeting them. In these situations, easy access to a stranger's personal information is not necessarily harmful. Still, there is a great deal of scenarios in which Internet users peruse the web for personal information to be used for an illegal or disturbing purpose, without the individual's knowledge or consent.<sup>12</sup>

Despite the conveniences associated with the modern Internet search, the widespread dissemination of personal data comes with a hefty price and is vulnerable to abuse.<sup>13</sup> The storage of personal information on the Internet has virtually destroyed our ability to keep even the most basic personal information private.<sup>14</sup> Likewise, the widespread availability of personal data has reduced individuals' control over their electronic identities and environments.<sup>15</sup> A crucial component of autonomy functions as the "flip side of the freedom of speech, that is, the freedom *not to speak*. This freedom not to speak protects the right not to have information disclosed without consent or in a manner contrary to one's interests."<sup>16</sup> In cyberspace, the freedom not to speak could be as simple as one's choice not to have their photograph posted online. Most of us no longer have this choice; photos or other personal information may be posted online without our consent. Thus, the Internet has robbed individuals of both privacy and autonomy in a sense that we no longer have the choice to keep certain information private, nor do we have the freedom not to speak.

In America, without the "Right to be Forgotten", citizens lack a recognized right to demand that invasive material be removed from the Internet. When the invasion of privacy involves nude photographs of a person uploaded to the Internet without consent, the effects can be

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12. See *Public Records on the Internet: The Privacy Dilemma*, PRIVACY RIGHTS CLEARINGHOUSE, <https://www.privacyrights.org/ar/onlinepubrecs.htm>.

13. *Id.*

14. *Id.*

15. *Id.*

16. CYBERSPACE LAW *supra* note 10 at 17.

devastating.<sup>17</sup> For young people who are more likely to experience severe emotional distress from cyber harassment,<sup>18</sup> the effects can be deadly.<sup>19</sup>

Admittedly, the right to be forgotten surely does not solve all the problems of privacy and autonomy in cyberspace, since only the most egregious violations of privacy will potentially be subject to deletion.<sup>20</sup> Even then, privacy violations will not necessarily meet the criteria for erasure under the law if the information is accurate and relevant.<sup>21</sup> However, the new policy in the EU does provide recourse for individuals' who have suffered severe invasions of privacy by having their personal information and/or photographs exposed online without his or her consent.<sup>22</sup> For those who fear that their lives could be ruined by a severe invasion of privacy, the ability to have content erased could be life-saving.<sup>23</sup>

*B. The Right to be Forgotten Provides a Remedy for Victims of  
Cyber Harassment*

With the ability to remain anonymous, cyber bullies have the freedom to harass their victims online, knowing that the chance of repercussion is minimal.<sup>24</sup> In the virtual world, unlike the real world, individuals are rarely held accountable for hateful comments directed at others.<sup>25</sup> Thus, the combination of anonymity without accountability has created an ideal breeding ground for online harassment.<sup>26</sup>

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17. See DANIELLE KEATS CITRON, HATE CRIMES IN CYBERSPACE (2014) (citing Matt Nobles, Bradford Reynolds, Bonnie Fisher, and Kathleen Fox, *Protection against Pursuit: A Conceptual and Empirical Comparison of Cyberstalking and Stalking Victimization among a National Sample*, JUSTICE QUARTERLY (2013) (available at <https://repository.asu.edu/attachments/144987/content/Protection%20Against%20Pursuit.pdf>)).
  18. See DANIELLE KEATS CITRON, HATE CRIMES IN CYBERSPACE at 11 [hereinafter CITRON].
  19. *Id.* (stating, "Fourteen-year-old Jill Naber hanged herself after a photo of her topless went viral." Fifteen-year-old Amanda Todd committed suicide "after a stranger convinced her to reveal her breasts on her webcam and created a Facebook page with the picture." Immediately before killing herself, "[Todd] posted a video on YouTube explaining her devastating that the photograph is out there forever and she can never get it back."); see also B.J. Lee, *Suicide Spurs Bid to Regulate the Net in South Korea*, NEWSWEEK.COM (October 15, 2008) (available at: <http://able2know.org/topic/124046-1>).
  20. See generally RIGHT TO BE FORGOTTEN FACTSHEET, *supra* note 1.
  21. *Id.*
  22. *Id.*
  23. See generally CITRON, *supra* note 18.
  24. *Id.*
  25. CYBERSPACE LAW *supra* note 10 at 118 (stating, [Accountability] "refers to the acceptance of responsibility for one's actions. Without accountability, there is

In recent years, several high profile cases have increased the public's awareness of cyber harassment.<sup>27</sup> Cyber harassment refers to "threats of violence, privacy invasions, reputation-harming lies and technological attacks."<sup>28</sup> Although the media largely focuses on cyber bullying as it relates to adolescents, Internet bullying effects and harms adults equally.<sup>29</sup> In her book, *Hate Crimes in Cyberspace*, Danielle Keats Citron tells the stories of several adults whose personal and professional lives were nearly destroyed by cyber harassment.<sup>30</sup> Citron's research indicates that reputation-harming lies can severely damage, if not ruin, an individual's career.<sup>31</sup> With the growing popularity of online review websites like Yelp.com and AngiesList.com, "the professional costs of cyber bullying are steep."<sup>32</sup> In the United States, victims of cyber harassment have very few, if any, options for recourse.<sup>33</sup> Because search engines have no duty to investigate or remove defamatory posts, the negative information can be perpetually linked to a person's identity.<sup>34</sup>

In addition to professional costs, cyber bullying takes a severe emotional toll on its victims.<sup>35</sup> Unlike real life bullies, cyber bullies are impossible to get away from, because the "perpetrator is everywhere."<sup>36</sup>

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no basis upon which an injured party can initiate a tort action to redress grievances. Although the users of anonymous messages seem adamant in claiming an absolute right to anonymity, this anonymity prevents the legal system from holding them accountable for the abuses of the privilege.").

26. See generally CITRON, *supra* note 18.

27. *Id.*

28. See CITRON, *supra* note 18, at 3.

29. See generally CITRON, *supra* note 18.

30. *Id.*

31. *Id.*

32. See CITRON, *supra* note 18 at 7 (stating, "Consider what happened to a well-established dentist working in Manhattan. In 2011, she asked a patient to remove negative online reviews that she believed to be baseless lies." When the dentist and patient were unable to resolve their differences privately, the patient filed a lawsuit against the dentist. Soon after news of the story broke "over three hundred anonymous posts attacked the dentist, claiming that she suffers from AIDS and sleeps with her patients." Within a matter of six months, the dentist's once 5-star rating online "plummeted to one-star and defamatory posts appeared at the top of searches of her name." Sadly, the dentist had no choice but to close her practice due to astronomical malpractice insurance rates and an inability to attract new patients. Almost overnight, the dentist's life was turned upside down by cyber attackers who ruined her career and stole her livelihood. For real-life nightmare, which is becoming more common, proves that defamatory posts can be career- ending.).

33. See generally CITRON, *supra* note 18.

34. *Id.*

35. *Id.*

36. See CITRON, *supra* note 18 at 10.

Consequently, victims suffer from psychological conditions such as anxiety, panic attacks, and posttraumatic stress disorder.<sup>37</sup> The right to be forgotten is useful in fighting cyber bullies for several reasons. Assuming that it functions properly, the right to be forgotten will prevent career destruction based on defamatory lies since inaccurate and irrelevant information is subject to deletion.<sup>38</sup> In addition, the right to be forgotten gives emotionally-damaged victims of cyber bullying a way to fight back against their attackers.<sup>39</sup> Whether the harassment is characterized by humiliating photographs or hateful comments, victims will finally be able to escape their bullies by having the material erased.

*C. The Right to be Forgotten Prevents Discriminatory Employment Practices*

In an ideal world, job candidates would be selected based on professional credentials and the ability to perform, and society has a strong interest in preserving fair employment practices. In the United States, Title VII of the Civil Rights Act makes it unlawful for employers to discriminate against individuals based upon race, color, religion, sex or national origin.<sup>40</sup> Conceivably, Title VII prohibits employment discrimination based upon these factors because they are not relevant to job performance. Despite society's interest in ensuring fair employment practices, the Internet has made it easy for employers to screen candidates based factors that are not necessarily relevant to employment.<sup>41</sup> In fact, the modern Internet search is preventing millions of average Americans from finding employment, whether they know it or not.<sup>42</sup> This widely used custom allows employers to screen candidates based on factors that likely have no impact on the individual's ability to perform in a professional setting. As Citron stated, "common reasons for not interviewing and hiring applicants were concerns

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37. *Id.*

38. *See generally* Martine Reicherts, EU Justice Commissioner, Speech Before the IFLA World Library and Information Congress, The Right to be Forgotten and the EU Data Protection Reform: Why We Must See Through a Distorted Debate and Adopt Strong New Rules Soon (available at: [http://europa.eu/rapid/press-release\\_SPEECH-14-568\\_en.htm](http://europa.eu/rapid/press-release_SPEECH-14-568_en.htm)).

39. *See* Lillian Edwards, Revenge Porn: *Why the Right to be Forgotten is the Right Remedy*, THE GUARDIAN (July 29, 2014), <http://www.theguardian.com/technology/2014/jul/29/revenge-porn-right-to-be-forgotten-house-of-lords>.

40. 42 U.S.C.A. § 2000e-2 (West).

41. *See* CITRON, *supra* note 18 at 8.

42. *Id.* (stating, "According to a 2009 Microsoft study, nearly 80 percent of employers consult search engines to collect intelligence on job applicants, and about 70 percent of the time they reject applicants due to their findings.")

about the applicant's lifestyle, inappropriate online comments, and unsuitable photographs, videos or other information about them."<sup>43</sup>

Assuming the underlying purpose of Title VII is to encourage fair hiring practices based on objective criteria, allowing employers to use online searches as a way to eliminate candidates based on factors such as an individual's "lifestyle...online comments...photographs [and] videos"<sup>44</sup> violates the spirit of the Act. It is also important to consider that information linked with an individual's name is frequently inaccurate and even defamatory.<sup>45</sup> Thus, when employers make snap judgments based on candidates' digital existence, there is no guarantee that the information upon which their decisions are made is reliable.<sup>46</sup> In the event that the employer's search reveals damaging information, "job applicants usually do not get a chance to explain destructive posts."<sup>47</sup> If the employer finds inappropriate or nude photos, the employer does not ask whether the photos were posted by the individual or by another person without the individual's consent.<sup>48</sup> Rather, the employer simply bypasses that candidate for an interview or refuses to extend a job offer.<sup>49</sup> As a result, employers may overlook applicants based on incomplete or wholly inaccurate information.<sup>50</sup> The right to be forgotten helps to solve this problem by giving job seekers an opportunity to have irrelevant and inaccurate content removed. Simple as it may sound, this can help reduce the chance that employers discriminate based on irrelevant factors.

When a person's online reputation has been tainted, finding employment can be next to impossible. In an interview with Danielle Keats Citron, one woman, going by the pseudonym "Anna Mayer," described her struggle to find a job after cyber attackers linked her name to several posts "explicitly designed to make her unemployable, such as "Anna Mayer: Do Not Hire," and "Anna Mayer Will Give Your Workplace a Bad Reputation."<sup>51</sup> Sure enough, when Citron conducted an Internet search for the woman's name, she found that "75 percent of the links appearing on the first page of the search were attack sites and disparaging posts."<sup>52</sup> For people who find themselves in situations similar to Mayer, the right to be forgotten provides a much-needed solution to the problem of finding employment. Under the right to be forgotten, Mayer and people like her

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43. See CITRON, *supra* note 18 at 8.

44. *Id.*

45. *Id.*

46. *Id.*

47. *Id.*

48. *Id.*

49. *Id.*

50. *Id.*

51. *Id.* at 1-3.

52. *Id.*

could request to have the defamatory posts erased so that potential employers are no longer bombarded with defamatory information when the employer conducts an online search. Assuming the individual's request for deletion is granted, he or she would once again have a meaningful chance at gaining employment.

Employers' increasing dependence upon digital information also raises concerns about the next generation of young people, most of whom have used social media from a very young age.<sup>53</sup> "When European Commissioner Viviane Reding announced the new right to be forgotten ... she noted the particular risk to teenagers who might reveal compromising information they would later regret" [when looking for jobs].<sup>54</sup> Reding's comment suggests that people should not be denied job opportunities later in life despite using poor judgment online during adolescence. Some Internet powerhouses have responded favorably to this movement. In a statement released following Reding's announcement, Facebook responded, "We welcome vice-president Reding's view that good regulation should encourage job creation and economic growth rather than hindering it, and look forward to seeing how the EU Data protection Directive develops in order to deliver these two goals while safeguarding the rights of Internet users."<sup>55</sup> This statement, while acknowledging the potential for the right to be forgotten to help protect people in their employment searches, also notes the constant concerns many share about protecting the rights of everyone who uses the Internet.

### III. CRITICISMS AND CONCERNS

Like all progressive policies, the right to be forgotten has attracted many critics, many of whom believe that the law threatens free speech and freedom of expression in cyberspace. Critics argue that the right to be forgotten creates an international disconnect in cyber policy as it is only enforceable within the European Union, and imposes a heavy burden on search engine operators.<sup>56</sup> Despite these concerns, the right to be forgotten represents a positive shift in cyberspace policy.

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53. See *Social Networking Fact Sheet*, PEW RESEARCH CENTER (last updated Sept. 2014), <http://www.pewinternet.org/fact-sheets/social-networking-fact-sheet/>.

54. See generally Peter Fleischer, *Foggy Thinking About the Right to Oblivion, PRIVACY . . . ?* (Mar. 9, 2011), <http://peterfleischer.blogspot.com/2011/03/foggy-thinking-about-right-to-oblivion.html> [hereinafter Peter Fleischer].

55. *EU Proposes "Right to be Forgotten" by Internet Firms*, BBC NEWS, (Mar. 8, 2012), <http://www.bbc.com/news/technology-16677370>.

56. See Natasha Lomas, *Jimmy Wales Blasts Europe's "Right to be Forgotten" Ruling as a "Terrible Danger"*, TECHCRUNCH (June 7, 2014), <http://techcrunch.com/2014/06/07/wales-on-right-to-be-forgotten/> [hereinafter Lomas].



In a statement released shortly after the EU decision, Reporters Without Borders President Gregoire Pouget criticized the new policy.<sup>57</sup> According to Pouget, the policy is flawed because it allows “anyone to demand that the results show only the information that suits them.”<sup>58</sup> Further, Pouget cautioned that the right may one day be “extended from people to entities, taking us into a world where all information is manipulated.”<sup>59</sup> Although free speech advocates like Pouget fear that the right to be forgotten will effectively chill speech, these critics overlook the point that the right to be forgotten does not bestow an unlimited right to have personal information removed from the Internet on individuals or corporations.

While the right to be forgotten was passed in an attempt to protect the fundamental right to privacy, the EU court emphasized the equal importance of protecting other fundamental rights, including freedom of the media and freedom of expression.<sup>60</sup> Because of the need for balance among all fundamental rights, freedom of the media and/or freedom of expression will frequently trump the right to be forgotten.<sup>61</sup> The right to be forgotten can and should function in unison with the right to free speech. According to Citron, legal reform “does not undermine out commitment to free speech; instead, it secures the necessary preconditions for free speech while safeguarding the equality of opportunity in our digital age.”<sup>62</sup>

American law has long recognized that the First Amendment right to free speech is subject to certain restrictions.<sup>63</sup> Specifically, the Supreme Court allows for the regulation of certain types of speech and accords less rigorous constitutional protection to other speech including threats, crime-facilitating speech, speech involving intentional infliction of emotional distress, and speech involving privacy invasions.<sup>64</sup> Intuitively, speech falling in these categories deserves less constitutional protection because it serves no public interest and has the ability to harm others.<sup>65</sup> Given the

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57. See *EU Court Enshrines “Right to be Forgotten” in Spanish Case Against Google*, REPORTERS WITHOUT BORDERS, (May 14, 2014), <http://en.rsf.org/unioneuropeenne-eu-court-enshrines-right-to-be-14-05-2014,46278.html>.

58. *Id.*

59. *Id.*

60. See generally Case C-131/12, *Google v. Española*.

61. See Jason Abbruzzese & Lorenzo Franceschi-Bicchierai, *What Europe’s “Right to be Forgotten” Means for Google (and you)*, MASHABLE (May 13, 2014), <http://mashable.com/2014/05/13/right-to-be-forgotten-europe-google/> (stating “Law Professor Douwe Korff said, ‘The right to be forgotten [creates] a balance. It doesn’t say that you have the right to have your transgressions forgotten; it says if there is no public interests in those transgressions being exposed, then they shouldn’t be exposed.’”).

62. See CITRON, *supra* note 18 at 190.

63. See generally CITRON, *supra* note 18.

64. *Id.* at 190-191.

65. *Id.*

law's position that some categories real-world speech can be restricted, it only makes sense that the same categories of speech on the Internet should be subject to the same restrictions. Like real-world speech that serves no public interest and has the capacity to injure people, Internet speech that unfairly damages one's reputation should be subject to regulation.

Understandably, many are also concerned about the difficulties search engines will face in attempting to comply with the right to be forgotten.<sup>66</sup> The law imposes a substantial burden on search engines suddenly charged with processing and evaluating requests for removal.<sup>67</sup> Compliance with these new procedures will cost search engines time and money.<sup>68</sup> In addition, critics argue that the right to be forgotten will be ineffective because Internet users can easily work around it.<sup>69</sup> Consequently, some believe that unless the law is expanded internationally, the right to be forgotten is inconsequential, since Internet users may still be able to access the "deleted" information by simply using a different search engine.<sup>70</sup>

Further, critics warn that the right to be forgotten furthers the "disconnect between European and Americans conceptions about the proper balance between privacy and free speech, leading to a far less open Internet."<sup>71</sup> In the virtual tug of war between free speech and the right to privacy, Europeans seem to favor privacy, whereas Americans tend to place a higher value on free speech.<sup>72</sup>

In America, there is no culturally recognized right to be forgotten or self-reinvention in the real world or the virtual world. Thus, critics are correct in pointing out that the right to be forgotten furthers the divide

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66. See Lomas, *supra* note 56.

67. *Id.*

68. See Christine Nielsen Czuprynski, *House of Lords' Report on Google "Right to be Forgotten" Case Concludes that it's "Bad Law"*, REED SMITH, TECHNOLOGY LAW DISPATCH, (Aug. 12, 2014), <http://www.globalregulatoryenforcementlawblog.com/2014/08/articles/data-security/house-of-lords-report-on-google-right-to-be-forgotten-case-concludes-that-its-bad-law/> (stating, "While Google may have the resources to comply with the ruling, smaller search engines may not.").

69. See Stephanie Bodoni, *EU Privacy Rules Said to be Extended to Google U.S. Site*, BLOOMBERG (Nov. 25, 2014), <http://www.bloomberg.com/news/2014-11-26/google-com-said-to-face-eu-right-to-be-forgotten-rules.html> (stating, "Expert Paul Bernal said, 'One of the natural consequences of the ruling is that people will use Google more flexibly.' If one can't find what he or she wants by conducting a search on Google.co.uk, then he or she will use Google.com.").

70. *Id.*

71. See generally Peter Fleischer, *supra* note 54.

72. *Id.* (stating, "In Europe, the intellectual roots of the right to be forgotten can be found in French law, which recognizes le droit a l'oubli, the "right of oblivion" – a right that allows a convicted criminal who has served his time and been rehabilitated to object to the publication of the facts of his conviction and incarceration.").

between the two cyber-cultures. Nevertheless, the growing gap between the two countries is not a convincing enough reason not to push for change. All countries, including the United States must adapt to address new problems in the digital age. New problems require new solutions. The decision to adopt new cyber policies in order to address novel problems should not be based on the necessity for uniformity; rather, lawmakers should consider what can be done to solve existing problems in the digital world, despite what is or is not being done in other countries.

## CONCLUSION

Admittedly, the right to be forgotten does not solve all problems associated with privacy, harassment or employment in the digital age. Regarding the implementation and effectiveness of the law, many valid concerns have been raised. Whether or not one supports the right to be forgotten as a matter of cyber policy, one thing is certainly true: “The Internet extends the life of destructive posts. Harassing letters are eventually thrown away, and memories fade in time. The web, however, can make it impossible to forget about malicious posts.”<sup>73</sup> Absent meaningful regulation, negative information linked to a person’s name online can destroy lives. In the professional realm, one negative post or photograph posted online could effectively ruin a person’s career. Furthermore, online harassment and invasions of privacy can cause severe emotional trauma and lead to several psychological disorders.

Every day, American citizens are being deprived of basic rights including the right to privacy, the right to seek employment and the right to live free of harassment, all in the name of “free speech” and “freedom of expression.” The fear of cyber regulation has led Americans to accept violations of individual rights that occur online. Yet, as terrifying as over-regulation of Internet speech sounds, the lack of any regulation is equally threatening. Consider Anna Mayer, who could not find employment based on defamatory lies,<sup>74</sup> the Manhattan dentist whose career was destroyed by false information online,<sup>75</sup> and the two teenage girls who feared never-ending doom based on one foolish mistake.<sup>76</sup> For these people, the right to be forgotten represents a much-needed second chance. That is not to say that people are entitled to removal simply because information linked with their names is hurtful or unflattering. The right to be forgotten was designed to balance the interests of society against the interests of the individuals. This means the public interest in having access to negative information will frequently outweigh an individual’s interest in having it deleted. When the information is accurate, adequate and relevant, requests

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73. See CITRON, *supra* note 18, at 4.

74. See generally CITRON, *supra* note 18.

75. *Id.*

76. *Id.*

for deletion should be denied, regardless of how much damage and humiliation the individual suffers. Conversely, when negative information linked to a person's name online is inaccurate, outdated, or irrelevant, the information serves no public interest and only exists to harm the individual. In cases like this, individuals are entitled to "start over" in a digital sense.